

Message Text

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67

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TAGS ENRG CA US

SUBJ U.S.-CANADIAN NEGOTIATIONS ON TRANSIT PIPELINE TREATY

1. IN ALL-DAY NEGOTIATING SESSION, U.S. AND CANADIAN DELEGATIONS (CHAired BY KATZ AND P.A. MACDOUGALL, RESPECTIVELY) RESOLVED ALMOST ALL OUTSTANDING SUBSTANTIVE ISSUES WHICH REMAINED IN TEXT PREPARED EARLIER THIS WEEK BY JOINT DRAFTING GROUP.

2. BOTH DELEGATIONS AGREED TO ACCEPT TEXTS ON GUARANTEE OF THROUGHPUT, NON-DISCRIMINATORY TAXATION AND "IN BOND" TREATMENT FOR HYDROCARBONS IN TRANSIT. RESERVATIONS WERE MAINTAINED BY BOTH SIDES ON SEVERAL SECTIONS TO PERMIT CLEARANCE ON TECHNICAL MATTERS. MAJOR CONCESSION BY CANADIAN SIDE CONCERNED AGREEMENT TO "IN BOND" PRINCIPLE, WHICH GOC HAD BEEN UNABLE TO ACCEPT UNTIL THIS MEETING. WE WERE ALSO ABLE TO RESOLVE SATISFACTORILY COMPLEX OF ISSUES ARISING FROM U.S. CONCERN OVER ABILITY OF CANADIAN FEDERAL GOVERNMENT TO BIND PROVINCIAL AUTHORITIES IN AREAS WHICH MIGHT ADVERSELY IMPACT ON U.S. PIPELINE TRANSITING CANADA.

3. ONE SIGNIFICANT ISSUE REMAINS OPEN. ALTHOUGH BOTH

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SIDES AGREED IN PRINCIPLE ON NEED FOR ESTABLISHING

STANDARD WHICH WOULD LIMIT ONEROUS BURDENS ON TRANSIT PIPELINES ALONG LINES OF U.S. CONSTITUTIONAL TEST PROHIBITING UNREASONABLE INTERFERENCE BY PROVINCIAL (OR STATE) AUTHORITIES WITH INTERPROVINCIAL (OR INTER-STATE) COMMERCE, WE WERE NOT ABLE TO ACHIEVE AGREED TEXT. CANADIANS WILL EXPLORE JUDICIAL PRECEDENTS IN EFFORT FIND LANGUAGE EMBODYING SIMILAR CONCEPT IN CANADIAN CASE LAW THAT WOULD BE ACCEPTABLE TO U.S.

4. KATZ INDICATED U.S. EXPECTATION THAT WE COULD REMOVE REMAINING TECHNICAL RESERVATIONS SHORTLY. WE WOULD PLAN TO BEGIN CONSULTATIONS WITH CONGRESS AND INTERESTED PARTIES IN PRIVATE SECTOR QUICKLY ON BASIS OF THIS TEXT. WHEN THIS PROCESS COMPLETED, U.S. WOULD EXPECT BE ABLE TO MOVE RAPIDLY TO APPROVE TEXT WHICH EMERGES ON AD REFERENDUM BASIS -- HOPEFULLY BY END JULY. ASSUMING APPROVAL BY BOTH GOVERNMENTS, SIGNATURE OF TREATY COULD TAKE PLACE IN EARLY FALL WITH SUBMISSION BY PRESIDENT TO SENATE LATE 1975 OR EARLY 1976. CANADIANS INDICATED THIS SCENARIO WAS BASICALLY ACCEPTABLE BUT INDICATED NEED TO STAY IN CLOSE TOUCH REGARDING TIMING OF CONSULTATIONS, PARTICULARLY WITH PRIVATE SECTOR.

5. CANADIANS HAVE YET TO DETERMINE WHAT COMPLEMENTING LEGISLATION (OR FEDERAL/PROVINCIAL AGREEMENTS) WOULD BE REQUIRED BUT WOULD DO SO PRIOR TO SIGNATURE TREATY.

6. PRESS GUIDANCE: BOTH SIDES AGREED THAT ANY STATEMENTS TO PRESS SHOULD REFLECT THE CONSIDERABLE PROGRESS MADE IN PRODUCING A DRAFT AGREEMENT. THIS TEXT WILL NOW BE SUBJECT OF CONSULTATIONS WITHIN EACH GOVERNMENT. A FURTHER MEETING IS ENVISAGED WITHIN A SHORT TIME TO CONTINUE THE NEGOTIATIONS. WE HOPE SUCH A MEETING CAN TAKE PLACE IN JULY.

7. MORE DETAILED REPORT ON NEGOTIATING SESSION BEING HAND-CARRIED BY DELEGATION TO WASHINGTON.
PORTER

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